

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON RECOVERY AND RESILIENCY

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B E F O R E:

MARK TREYGER  
Chairperson

COUNCIL MEMBERS:

CARLOS MENCHACA  
DONOVAN J. RICHARDS  
ERIC A. ULRICH  
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## A P P E A R A N C E S (CONTINUED)

Mitchell Shpelfogel  
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Harold Weinberg  
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John Corey

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Supervising Attorney, Storm Response Unit  
New York Legal Assistance Group

[gavel]

CHAIRPERSON TREYGER: Good afternoon.

I'm Councilman Mark Treyger, Chair of the Committee on Recovery and Resiliency and I want to thank you for joining us here this afternoon. Today we'll be hearing Resolution 522 which I will explain in greater detail shortly and discuss a shocking and unacceptable victimization of flood insurance policy holders that has recently been exposed. We are told we need flood insurance. It is so important that the federal government has redrawn all of our insurance maps and requiring thousands more New Yorkers to carry it. Flood insurance is expensive and getting more expensive by the year. But while we are fighting to keep it affordable we never, we've never really questioned the full, the, the usefulness of it because flood insurance has been historically a safety net. We hope to never need safety nets but when we pay for them we expect that they will be there to protect us.

Unfortunately after Hurricane Sandy this flood insurance safety net may have failed hundreds if not thousands of flooded property owners. It has come to light in recent months that damage

2 assessments of flooded properties were being  
3 secretly rewritten by engineering firms to hide the  
4 actual damages to those homes from Sandy in an  
5 effort to reduce insurance companies' flood  
6 insurance payouts. Engineers inspecting properties  
7 would write reports finding damage from flooding  
8 but instead of these being considered final reports  
9 they were euphemistically called drafts and then  
10 put through a peer review process where their data  
11 findings and conclusions were rewritten by a second  
12 person who had never even seen the property being  
13 assessed. These rewritten reports would reduce the  
14 amount of damage sometimes going as far as to claim  
15 there was no flood damage what's so ever and then  
16 be passed off as the original engineer's work.  
17 Insurance companies use these reports to reduce  
18 their payouts, their payments to property owners.  
19 And homeowners would receive these final reports  
20 never knowing the reports had even been altered in  
21 the first place. Even worse this may not have just  
22 been the work of a few bad actors but instead was a  
23 result of the misaligned incentives of our current  
24 flood insurance system. These flood insurance  
25 plans, even the ones sold by private companies were

2 all just repackaged federal national flood  
3 insurance program plans. The Federal Emergency  
4 Management Agency's Policies were set up to punish  
5 insurance companies who overpaid claimants while  
6 those who underpaid on flood insurance claims were  
7 left, were let off the hook. This system  
8 effectively pressured insurance companies to lower  
9 their flood insurance payments and also pressured  
10 engineering firms to deliver the lower damage  
11 assessments that the insurance companies needed to  
12 justify their lower payments. To their credit, I  
13 would say limited credit, FEMA has taken some steps  
14 to begin addressing this, this problem but more  
15 needs to be done. The resolution being heard today,  
16 Reso 5, sorry, 552 of 2015 calls on FEMA to  
17 reexamine every single flood insurance claim payout  
18 for possible underpayment and for future disasters  
19 to require insurance companies to make all drafts  
20 of engineering reports available to homeowners  
21 whenever responding to a flood insurance claim.  
22 This resolution proposes some possible reforms to  
23 fix what went wrong this time and to prevent it  
24 from occurring again in the future. But this is  
25 only a starting point for discussion. Today this

2 committee hopes to hear and evaluate other reform  
3 ideas as well so that we can use the weight of this  
4 council and this city to lobby the federal  
5 government for a fair, a more fair flood insurance  
6 program overall. If flood insurance is important  
7 enough that homeowners are required to carry it  
8 then it should be important enough for the system  
9 to be, to be reformed until it works correctly. I'd  
10 like to thank all those who have joined us for this  
11 very important discussion today. I just want to  
12 first mention we've been joined by Council Members  
13 Steven Matteo, Council Member Carlos Menchaca, and  
14 that's it for, for now. And I just want to just  
15 also say to open up this hearing that these are the  
16 same victims that are still dealing with every  
17 other aspect of the recovery. We're still picking  
18 up the, picking up the pieces of their lives, still  
19 probably going through their banks and, and, and  
20 their savings accounts to try to make ends meet if  
21 they're even still on their property. And they're  
22 wrestling with bureaucracy with, whether it's build  
23 it back or other types of programs. And this has  
24 just been another burden placed on victims that  
25 have gone through one of the worst if not the worst

1 natural disaster in our city's history. So I know  
2 that New York City is limited in what we can do in  
3 as far as governing insurance companies but what,  
4 what we do have which we will be using in this  
5 council is the bully pulpit and drawing light and  
6 attention to this issue and holding our federal  
7 officials accountable until changes are made. And  
8 we will use that power to the fullest extent  
9 possible. So I'd like to call up, I'd like to note  
10 that we had asked the administration to join us  
11 here today to hear from the Sandy team and they  
12 chose not to appear today. But I assure you that  
13 there will be follow-up with the administration  
14 about what we can do as a city to make sure that we  
15 highlight this issue and demand reform and action  
16 and changes on behalf of our city's Sandy victims.  
17 So the first panel I'd like to call up is Mitchell  
18 Shpelfogel and Harold Weinberg. You may begin... Just  
19 make sure the microphone is on and just introduce  
20 yourself and, and your affiliation or, and just  
21 begin please.

22  
23 MITCHELL SHPELFOGEL: My name's Mitchell  
24 Shpelfogel. I represent many victims of Sandy who  
25 unfortunately did not get the proper reimbursement

2 from FEMA or their insurance companies. In dealing  
3 with this I've been, I've been dealing with this  
4 for over two years with my clients. In fact there  
5 are over 2,000 cases currently before the judges in  
6 the eastern district and federal court. And...

7 [cross-talk]

8 CHAIRPERSON TREYGER: Can you speak into  
9 the mic, I'm sorry. Thank you. Thanks so much.

10 MITCHELL SHPELFOGEL: ...the eastern  
11 district and federal court. And prior... They, they  
12 have a case management order there and prior to the  
13 first case management order back in February of  
14 2013 I had already been aware that one of my  
15 clients engineer report was altered. When we were  
16 called in to establish this case management order  
17 we were there with about 250 attorneys both from  
18 plaintiff's bar and defendant's bar. And one of the  
19 issues that came up were draft reports. Somebody  
20 raised the issue about draft reports. Defense  
21 Council Jerry Nielson who at the time was  
22 representing approximately 90 percent of the WYO  
23 carriers, he objected to that. And I mentioned that  
24 I have an altered report to which Judge Brown said  
25 that would be fraud. My response was that's



1 correct. He said I guess you have a good case.  
2 Unbeknownst to him that this was something that was  
3 rampant in the industry. There's an estimation now  
4 that there was approximately 13 thousand  
5 engineering reports that were authored or forged.  
6 But what's important to note just for an  
7 understanding here is that the engineering, the  
8 alteration of engineering reports were but one  
9 method that the WYOs utilized to underpay  
10 homeowners. There were altered adjusting reports  
11 which is a lot larger of an issue because not every  
12 home needed an engineer but every single home  
13 needed an adjustment and those were altered as  
14 well. Another way of doing it which is a class  
15 action that we're dealing with now is they decided  
16 whether it was by mistake or on purpose but they  
17 did not pay the sales tax. And when you, that would  
18 mean somewhere between 5,000 to 20,000 dollars per  
19 homeowner depending on their adjustment. And when  
20 you do it across the board on 144 thousand claims  
21 we're talking about a large amount of money. Now in  
22 reality FEMA has said and I, and I personally have  
23 spoken to Brad Kieserman who I think is doing a  
24 wonderful job in evaluating the claims that are  
25

1  
2 currently in litigation and he's told me that  
3 sometime at the end of April most likely beginning  
4 of May they're going to try to set up some sort of  
5 a program where these claims are reevaluated. All  
6 144 thousand claims will get an opportunity to be  
7 reevaluated. They will send out letters to all  
8 homeowners in telling them that. But are we  
9 supposed to trust this same broken system to  
10 reevaluate our claims. People submitted their  
11 claims. They were denied or lied to. People who  
12 filed an appeal with FEMA, not one appeal was  
13 granted. So people were either taken advantage of  
14 one, maybe two times. And now we're asked to  
15 resubmit to the same system. I find that to be a  
16 little hard to swallow. But in terms of talking  
17 about reforms and that's very important because we  
18 will get past this, as opposed to a place like  
19 after Katrina was hit we're New Yorkers and we're  
20 resilient and we're able to get past this and we  
21 will with the help of our local politicians, our  
22 state politicians, and our federal politicians we  
23 will get through this. But how do we reform this.  
24 And being involved with this for such a long time  
25 myself and other, other people have undergone a few

1 ideas and we've spoken to numerous senators about  
2 it, the, in fact I was in Washington yesterday  
3 talking to a few of them about this very issue. And  
4 I think for everyone here to understand the ideas  
5 we have you really have to understand what went  
6 wrong. Because in reality the program isn't a bad  
7 program. It's just not run properly. And the  
8 biggest issue we have which homeowners are  
9 concerned with is the premiums. Premiums are very  
10 high and getting higher. In fact in today's paper  
11 it said that it's going up another 18 percent. What  
12 happens with the premiums... Well let's take a step  
13 back. FEMA administers the NFIP program, National  
14 Flood Insurance Program. Now they do not have the  
15 proper infrastructure to administer these claims,  
16 to run this program. So what they did is they  
17 allowed insurance companies to administer it for  
18 them, the write your own... [cross-talk] carriers.  
19 What they do... [cross-talk] is they take the  
20 premiums in, take up to a minimum of 15 percent of  
21 those premiums. And in fact after dealing with  
22 administrating it through adjusters, engineers, or  
23 whatever they need they take between 47 to 53  
24 percent of the premiums are kept by the write your  
25

1 owns. So on a typical year the, they collect...  
2 premiums about two billion dollars and only one  
3 billion dollars goes into the program. Typically  
4 it's fine because a big storm comes in this country  
5 about once every five years. So little storms get  
6 taken care of, no big deal but once every five  
7 years we have a big storm, there's enough in the  
8 treasury, in, in that fund from FEMA for the one  
9 billion dollars to cover it. And then we start over  
10 again. Katrina was very different. What happened in  
11 Katrina was that for example write your own, like  
12 Allstate or State Farm. They did both of the wind  
13 and the flood. They send one adjuster. So we know  
14 that 140 mile winds came in and destroyed the home.  
15 But somehow flood have to cover all those costs. So  
16 suddenly we're 27 billion dollars in debt in FEMA,  
17 not enough money for the program. Now if the  
18 program is now in solvent that means that the write  
19 your owns have no business. So not only do they  
20 have no business but their Council Jerry Nielson  
21 who represents 95 percent of them has no business  
22 either. So he starts right after Katrina giving  
23 lessons and classes and telling people about this  
24 brand new idea, which Harold who's an engineer  
25

1 could give you a little bit more information on,  
2 about this earth movement and preexisting  
3 conditions. We all know that's bologna. A house was  
4 standing. It was, everyone had, we're, was able to  
5 live in it. The following day they couldn't even  
6 open the door because it was lopsided. That  
7 happened from the flood not from the preexisting  
8 condition. But he taught them how to do this and  
9 scared them... exactly what you said Councilman  
10 Treyger that if you overpay you're going to get in  
11 trouble. Underpaid is no big deal. And if they  
12 litigate who's paying for this? FEMA. If you want  
13 to do an adjustment report send an adjuster, send  
14 another adjuster, send a third adjuster. The write  
15 your owns are running a business where they collect  
16 premiums, one billion dollars a year, and they have  
17 no risk. It's not... insurance company where if  
18 there's a, some type of damage they pay out.  
19 There's no risk. It comes from the coffers of the  
20 federal government. So what, what kind of a better  
21 business can you find? High premiums, no risk. With  
22 this in mind knowing that any fee under 25 hundred  
23 dollars is not even reviewed by FEMA, they just  
24 make sure that all their fees are below 25 hundred  
25

2 dollars. So they send an adjuster, under 25 hundred  
3 dollars. If you want to go a second time that's a  
4 second fee under 25 hundred dollars. An engineer,  
5 they'll hire one engineering firm. That engineering  
6 firm will hire a sub and a sub and a sub, someone  
7 like Mr. Weinberg will go out there and get paid  
8 700 dollars but FEMA paid out 25 hundred dollars.  
9 So in reality the first thing that has to be done  
10 is to have real oversight, to just allow 25 hundred  
11 dollars to be spent without any oversight is  
12 problem number one. Problem number two is not  
13 allowing people like Jerry Nielson who is now a  
14 defendant in a racketeering class action against  
15 him to change the rules, especially in the middle  
16 of the game. There was, there's something known as  
17 the proof of loss which is essentially just a  
18 notice requirement. Like any insurance company  
19 would get a notice requirement. But he started  
20 making it a statutory requirement which is, it's  
21 not and FEMA now has acknowledged that it's not.  
22 But if you signed in the wrong place or you dotted  
23 your I the wrong way automatically he would say  
24 you're not entitled to any reimbursement. So you're  
25 starting from zero so if you want to negotiate

1 let's negotiate from zero. Clearly that is not what  
2 this program was intended for. What we're  
3 proposing, knowing oh another key thing is they  
4 sent many engineers that were not even licensed in  
5 the state of New York. So they have no risk.  
6 They're, they're coming from Texas, Illinois,  
7 wherever they're coming from, they don't know New  
8 York. They aren't licensed in New York and they  
9 have nothing to lose in New York. So that should  
10 definitely be a requirement, anyone who does an  
11 engineering report first of all should be vetted,  
12 should know if there's any inside dealings why  
13 they're getting the contract, and should definitely  
14 be licensed in the state of New York. But what  
15 we've suggested both to senators and what I suggest  
16 to the, to you here is that any future ideas for  
17 reforms has to be done by means of a task force,  
18 Senator Menendez, Senator Schumer, Gellibrand, and  
19 Brooke have all signed up on the idea of needing a  
20 taskforce both with engineers, attorneys from both  
21 sides who understand these issues and can really  
22 speak to them. But again if we look at it and  
23 understand what's going on here there's no reason  
24 why we can't lower premiums to help the people  
25

2 here, to have the flood insurance that they need,  
3 and at the same time get, give them the coverage  
4 that they deserve when they're hit with such a  
5 storm.

6 CHAIRPERSON TREYGER: And I guess we'll  
7 hear from Mr. Weinberg but I have some, we'll have  
8 some questions for you right afterwards. We, we  
9 could hear from Mr. Weinberg..

10 HAROLD WEINBERG: Thank you Mr.  
11 Councilman. My name is Harold Weinberg. I'm a  
12 licensed professional engineer with the state of  
13 New York since 1961. That gives me a certain amount  
14 of expertise. And so I've looked at many buildings.  
15 I used to work for the New York City Transit  
16 Authority and.. platform extension on 6<sup>th</sup> Avenue  
17 years ago and I went through every building from  
18 West 4<sup>th</sup> Street to 14<sup>th</sup> Street to see that. So I  
19 have a lot of experience. And then as a consulting  
20 engineer I filed some thousands of applications  
21 with the Department of Buildings in the city of New  
22 York. Of this matter I'm not just an engineer I'm  
23 an affected person. I live in Manhattan Beach and I  
24 was flooded also. And so one of my neighbors came  
25 to me and said Harold what do you think of this



1  
2 engineering report. And what did the engineering  
3 report say, all damage was preexisting none caused  
4 by the storm. That is a pure fraud and an egregious  
5 lie. And I'm here today to tell you that I would  
6 never stoop so low. I wouldn't do that. I looked at  
7 15 buildings on this storm and I found everyone  
8 suffered storm damage. And when you have some firm  
9 that comes along and says no it was all preexisting  
10 I'm hoping that you'll do the very right thing.  
11 Once you catch somebody on fraud their license  
12 ought to be revoked if not sent to jail. Thank you.

13 CHAIRPERSON TREYGER: Thank you very  
14 much Mr. Weinberg. And just, I have some questions  
15 to ask Mr. Shpelfogel. If you could just, for the  
16 purposes of our committee just so we're all briefed  
17 and on the same page can you walk us through step  
18 by step one of the examples, one of the, that has  
19 been highlighted, exposed in the media about what  
20 actually happened?

21 MITCHELL SHPELFOGEL: Sure.

22 CHAIRPERSON TREYGER: Please.

23 MITCHELL SHPELFOGEL: One of the most  
24 egregious ones happens to be one of my clients, Mr.  
25 Steven Dweck. Storm hit. He calls his insurance

2 company. They came and inspected it. After they  
3 inspected it they determined that an engineer is  
4 necessary. Of course they hired an engineering  
5 consultant for 25 hundred dollar, 2494 dollars, who  
6 hired an engineering firm for 18 hundred dollars  
7 who then hired Mr. Weinberg for 700 dollars. Mr.  
8 Weinberg came out to the home, wrote a report, sent  
9 it in, client receives a declination saying that  
10 his home is not damaged because of the flood storm  
11 and therefore they will not reimburse the  
12 structural damage. He came to me. I reviewed it.  
13 Also Mr. Steven Dweck is a resident of Manhattan  
14 Beach as am I. Being a victim of Sandy as well I  
15 know what happened there. I didn't leave during the  
16 storm. I saw what happened there. And it was in the  
17 words of Mr. Weinberg a farce. That said...

18 HAROLD WEINBERG: Fraud.

19 MITCHELL SHPELFOGEL: A fraud. That said  
20 I reached out to Mr. Weinberg knowing him and I  
21 said I know you to be a competent engineer, how  
22 would you write such a thing and his answer was I  
23 didn't. And he was nice enough to send me the  
24 report that he submitted to High Rise Engineering.  
25 High Rise Engineering by the way is now subject to

1 a probe by the Attorney General's Office who raided  
2 their office, took out all their computers and  
3 files as it's been uncovered that they were  
4 complicit to this fraudulent activity not just for  
5 the Dwecks but across the board. When I saw the two  
6 reports I contacted High Rise saying is there some  
7 type of an error here. Spoke to both their, their  
8 reviewer Matthew Pappalardo who is, who told me  
9 well I reviewed the report that Harold did and I've  
10 done thousands of these so I know, so using what he  
11 saw I amended it. I spoke to Harold and he was okay  
12 with it. And I changed his report and put his  
13 signature and seal on the report I wrote.

14 Parenthetically Mr. Pappalardo has a master's in  
15 Biology. He's not an engineer. Not in any state is  
16 he an engineer. Understanding the fraud that took  
17 place here I did the next thing that necessary, I  
18 sent both copies of the report, both original and  
19 fraudulent to Hartford Insurance who was a WYO in  
20 this matter telling them hey there's a fraud here.  
21 I'm sure you want to pay this claim right now. I  
22 received a letter in return, in response from Jerry  
23 Nielson who is their council, who is now also a, as  
24 I mentioned a defendant in this racketeering  
25

1 lawsuit we filed stating well since this  
2 engineering report is now tainted why don't we send  
3 you another engineer. Now there's no tainting here.  
4 We have the original engineer. And I called them up  
5 and I said hey there's no tainting. Call up Mr.  
6 Weinberg and ask him which is your report. He said  
7 it's tainted we, we need to get you a new engineer.  
8 Of course the reason why you need a new engineer is  
9 because that's another 25 hundred dollars they  
10 could build a system. And they may need another  
11 adjuster which they could bill again. And Jerry  
12 Nielson gets to just charge for his time again as  
13 the attorney. So when I did inform him that I don't  
14 think that is the proper way of moving forward he  
15 sent us a letter stating if you do not allow us to  
16 bring in another engineer we're going to deny the  
17 claim for lack of cooperation. And how dare you try  
18 to state that a fiduciary of the federal government  
19 is perpetrating a fraud. How dare you. My answer  
20 was because they are. But in, but in an effort to  
21 not prejudice my client's claim we did allow  
22 another engineer to come in. Not surprising to us  
23 the engineer found exactly what the fraudulent  
24 report found. Because this one was one that they  
25

1  
2 were able to control a little bit more than Mr.  
3 Weinberg. We found out later that High Rise did  
4 come to Mr. Weinberg's office to try to convince  
5 him to change the report which he refused to do. So  
6 after we received the next declination we appealed  
7 this to FEMA. We sent them all the documents, all  
8 the information, and an affidavit from Mr. Weinberg  
9 saying that is not my report. I stand by my  
10 original report. And we waited six months for a  
11 response that says we reviewed everything but we're  
12 sticking with the original finding of the WYOs  
13 because there's two reports against one discounting  
14 the whole fact that one of the reports is a  
15 fraudulent report. And they utilized the fraudulent  
16 report to call the first report a tainted report to  
17 get the third report. So knowing all this we filed  
18 an action. And then when we realized and did some  
19 more looking into the matter and seeing how all  
20 these pieces are intertwined with Jerry Neilson and  
21 this firm with the adjusting report, adjusting  
22 companies and the fraud that was rampant we amended  
23 it to include a racketeering class action which is  
24 currently pending before the eastern district. It  
25 blew up with the Rami case, my co-council Steve

1 Mostyn is representing on the Rami Case and a few  
2 of us got together and it be, and Judge Brown in a  
3 different matter when he saw the fraud there it  
4 opened up the flood gates. And that's when it  
5 became very apparent that this type of fraud is  
6 across the board. But what I mentioned when I first  
7 started it was just but one way that WYO is  
8 utilized to underpay people. The engineering  
9 although it's a big line item because the  
10 structural damage is a lot of money but people  
11 shouldn't be cheated out of even one dollar. And  
12 when they don't pay you on the tax which is  
13 anywhere between 5,000 to 20,000 dollars per home,  
14 when they don't pay you, when they underpay you on  
15 your sheetrock, when they fraud, forge and alter  
16 adjusting reports, in one particular case of mine  
17 from 80 thousand dollars down to 322 dollars,  
18 there's a problem here. And there's no one watching  
19 anyone. And you're allowing someone like Jerry  
20 Nielson to teach WYOs how they could circumvent the  
21 system for one simple reason, to keep it solvent.  
22 Because if they have to pay out everything after  
23 being 27 billion dollars in debt the program will  
24 close and they all lose their jobs.  
25

2 CHAIRPERSON TREYGER: So I, I don't even  
3 know where to begin. But let me just recognize  
4 we've been joined by Council Member Donovan  
5 Richards, Council Member Margaret Chin. You had  
6 mentioned you live in Manhattan Beach and they were  
7 denying that there was flood in Manhattan Beach.  
8 My, when I was a teacher, my principal lives in  
9 Manhattan Beach and she had to miss quite a bit of  
10 days because of what happened to her home. And she  
11 showed us video footage of the ocean literally in  
12 her home. So... Yes. So I, I could tell you there's  
13 video footage of what happened to people in  
14 Manhattan Beach. So I have, I have some questions  
15 and my colleagues will let us know if, they have  
16 as, as well. We're trying to piece by piece see  
17 where we could address this and so, so we could be  
18 all on the same page what we're advocating for from  
19 our federal government. Part of the problem that I  
20 see already is you have this relationship between  
21 the insurance company and these engineering firms.  
22 It just so happened Mr. Weinberg happens to be a  
23 very honest independent man who wants to just do  
24 his job. And he basically wrote down what he saw.  
25 And what you're saying Mr. Weinberg is that what

1  
2 you ultimately wrote down was not what was  
3 ultimately given to the homeowner. Is that correct?

4 HAROLD WEINBERG: One of the homeowners  
5 contacted me and showed me the report and that  
6 report that he showed me which was a clumsy  
7 alteration of what I wrote said there was no storm  
8 related damage when I in fact said all the damage  
9 was a result of Hurricane Sandy.

10 CHAIRPERSON TREYGER: So maybe...

11 HAROLD WEINBERG: And I had no idea that  
12 all of my 15 reports were so altered but they were.

13 CHAIRPERSON TREYGER: So are, are they...

14 HAROLD WEINBERG: I...

15 CHAIRPERSON TREYGER: ...questioning  
16 whether...

17 HAROLD WEINBERG: I understand...

18 CHAIRPERSON TREYGER: ...Sandy was a  
19 storm.

20 HAROLD WEINBERG: But I understand other  
21 engineers also had the same... [off mic]

22 CHAIRPERSON TREYGER: Yeah so we're not  
23 here to demonize every engineer. What we're here  
24 is, is to, is to question the relationship between  
25 the insurance companies and, and the engineering



1 firms and this issue of the solvency of FEMA.  
2 Because... And this is where local action does  
3 matter. And I, I, and I will tell all my colleagues  
4 that even though sometimes we're told that this is  
5 a federal issue well the, some of the changes that  
6 happen to FEMA were a result of what happened in  
7 New Orleans because of public outcry and corruption  
8 and... By the way part of the reason why we're facing  
9 delays in many of the programs for our recovery is  
10 because of what changes the federal government made  
11 after Katrina because they accused, there, there  
12 was accusations of widespread fraud and corruption.  
13 And people actually went to jail because of that.  
14 So they made the process to recover funds much more  
15 difficult and complex because of what happened  
16 there. So we need to now mobilize the city and  
17 mobilize our residents and to put pressure on the  
18 government to make needed changes. But I want to  
19 begin by saying what are your thoughts on calling  
20 for an independent engineering firm that is not  
21 hired or not picked by the insurance company  
22 conducting the engineering report. Any thoughts on  
23 that?  
24

2 MITCHELL SHPELFOGEL: I think that would  
3 be fantastic and I would just add to the fact that  
4 they should be licensed in the state where they're  
5 doing the inspection.

6 CHAIRPERSON TREYGER: Yes. I mean that's  
7 the other thing that you had mentioned that they  
8 had people from out of New York coming in not  
9 understanding all of our codes and so forth.

10 MICHELL SHPELFOGEL: Absolutely. And,  
11 and another thing as I mentioned for example in the  
12 High Rise engineering they had a non-engineer  
13 reviewing, rewriting and basically altering these  
14 reports. So you know Harold had 15 reports he did  
15 but there are other engineers like Mr. Braum who  
16 some of you may have seen on 60 Minutes. He had 98  
17 percent of his reports altered and he did 175  
18 reports. The only four reports... or I think the only  
19 three reports that were not altered were the ones  
20 where he found there were no structural damage due  
21 to flood.

22 CHAIRPERSON TREYGER: Have you... Is there  
23 an estimate... I mean I know this is... How much would  
24 it cost for an independent engineering firm to  
25 conduct this type of... Mr. Weinberg you might know,

2 what would be the, what would be the cost to a  
3 property owner to hire an independent engineering  
4 firm to, to conduct a report not relying on, on  
5 theirs?

6 HAROLD WEINBERG: For a one family to  
7 two family home?

8 CHAIRPERSON TREYGER: Yeah.

9 HAROLD WEINBERG: 25 hundred bucks is a  
10 reasonable fee.

11 CHAIRPERSON TREYGER: And when people  
12 just went through the worst disaster in their lives  
13 and having to pick up the pieces that might not be  
14 an option for them at that point. I mean especially  
15 Sandy hit many of our vulnerable communities,  
16 working class people, they may not have that money  
17 right away and it's very costly to them. So.. And  
18 that's what they'll probably tell you. Oh you  
19 could, you could hire your own but it's very costly  
20 and it's very expensive, is that correct Mr.  
21 Weinberg.

22 HAROLD WEINBERG: Yes it is. That's  
23 number one. Number two I wanted to point out in the  
24 state of New York unless you're a licensed engineer  
25 by the state education department you're not an

1 engineer and you cannot call yourself an engineer.  
2 So the people they use are not licensed and they  
3 have no right to call themselves an engineer. And  
4 somebody out to take care of that issue. It  
5 certainly is worthy of examination.  
6

7 CHAIRPERSON TREYGER: So, so what, what  
8 you're... Just so I'm hearing you correctly what  
9 you're saying is that not only are they not  
10 licensed in New York they might not be engineers at  
11 all?

12 HAROLD WEINBERG: Not in the state of  
13 New York. That's what I'm saying. State education  
14 law says that.

15 MITCHELL SHPELFOGEL: For, for  
16 clarification what I think Harold is trying to say  
17 is that even if you are an engineer in a different  
18 state New York will not acknowledge that licensing.  
19 You have to be licensed in this state in order to  
20 hold yourself out to be an engineer.

21 HAROLD WEINBERG: Correct.

22 MITCHELL SHPELFOGEL: What I'm saying is  
23 that there were people who were doing reports that  
24 weren't engineers in any state and don't have the  
25 proper education to do an engineer report anywhere

1 in this country let alone in a different state. But  
2 to just add on to what Mr. Weinberg said 25 hundred  
3 dollars is a fair number for an, for an engineering  
4 report. And as you mentioned it would be difficult  
5 for some people to be able to do that. But here we  
6 see in the 15 thousand, approximately 15 thousand  
7 reports that were done 25 hundred dollars is the  
8 limit that were given to the WYOs to hire an  
9 engineer because people, that is fair, a fair  
10 number to pay. But again all that was done over  
11 there was there was a pyramid where somebody made  
12 the money by hiring someone else by hiring someone  
13 else. And Mr. Weinberg who should have gotten 25  
14 hundred dollars only made 700 dollars on this per  
15 home. So I think that when you, when, if you were  
16 to hire an independent engineer and give him volume  
17 business they would do it for less than 25 hundred  
18 dollars. And especially FEMA's paying for it why  
19 not hire someone directly for a 1,000 dollars, you  
20 save 15 hundred dollars in the program and they're  
21 not being controlled by somebody who wants to get  
22 the answer they're looking for.

24 CHAIRPERSON TREYGER: Mr. Weinberg can  
25 you just briefly explain the, the usual process

2 whereby an insurance company contracts you to  
3 assess damages and the steps that are normally  
4 followed after you submit the report. Just kind of  
5 briefly walk us through the usual...

6 HAROLD WEINBERG: First thing..

7 CHAIRPERSON TREYGER: ...the usual  
8 process.

9 HAROLD WEINBERG: First thing is I would  
10 have to make a... inspection of the site. Then I  
11 would have to give them a written proposal of my  
12 fee structure, what I intend to do, and the time  
13 period in which it would take me to proceed with  
14 that. I would also exam the records of the  
15 Department of Buildings and the EPA to see if there  
16 are any outstanding violations. That gives a clue  
17 as to whether or not conditions in the building  
18 were preexisting, like for example the building  
19 department may have a violation say building has  
20 structural damage in the basement, something like  
21 that. Then I would, might look at other city  
22 agencies to find out if there was any other  
23 violations. Then I would try to get the original  
24 building plans or any plans on record so that when  
25 I go to that site I can go through everything and

2 check and see that it meets the way the building  
3 was built. Because buildings are sometimes altered  
4 without the benefit of a permit and doing that work  
5 may have done damage to the building. For example  
6 you put a foundation load in the existing  
7 foundation. You may cause cracking. You may cause  
8 increased lateral pressure that'll damage the sub,  
9 substructure of the building. So these are the  
10 steps that you have to follow as a minimum.

11 CHAIRPERSON TREYGER: So what  
12 specifically did they alter in your report if you  
13 could just...

14 HAROLD WEINBERG: The conclusions.

15 CHAIRPERSON TREYGER: The conclusions?

16 HAROLD WEINBERG: Yes. I said there was  
17 structural damage caused by Hurricane Sandy. And  
18 they said all conditions were prior and  
19 preexisting.

20 MITCHELL SHPELFOGEL: If I may add in  
21 many of the reports that Harold did and other  
22 engineers did if they were just to change a  
23 conclusion and that's what they are trying to say  
24 and they said it was a peer review and therefore  
25 they found different conclusions that would be

2 problem number one. But that's not where they  
3 stopped. They changed the observations. In fact in  
4 many of Harold's report, in, for example in the  
5 Dweck case one place Harold mentions that the home  
6 was lifted, the diaphragm of the home was lifted  
7 and therefore there's cracking in the tile which  
8 basically means a lot of water pressure makes  
9 everything go up. They said, whited that out and  
10 under a picture they wrote cracking due to  
11 settlement. So it's not just a conclusion. They  
12 weren't there. They changed an observation that a  
13 licensed engineer made.

14 HAROLD WEINBERG: I want to add  
15 something to that. In engineering school we learn  
16 that structures if they settle will only do so for  
17 the first five years. And these buildings are way  
18 more than five years old. So that was an incredible  
19 egregious lie. Something that...

20 CHAIRPERSON TREYGER: And this is just  
21 one, this is, how many cases Harold did you... How  
22 many...

23 HAROLD WEINBERG: 15. I did...

24 CHAIRPERSON TREYGER: 15.

25 HAROLD WEINBERG: All in Brooklyn.



2 CHAIRPERSON TREYGER: All in Brooklyn.

3 And were they all in Manhattan Beach?

4 HAROLD WEINBERG: No one or two was in  
5 Gerritsen Beach and one was in Brighton.

6 MITCHELL SHPELFOGEL: I, I have one  
7 client that Harold happened to have been the  
8 engineer there as well in Gerritsen Beach. In fact  
9 Councilman you were with me outside of his home.

10 CHAIRPERSON TREYGER: That's right.

11 MITCHELL SHPELFOGEL: And this, one of  
12 my clients, he, his claim was denied also saying  
13 that there was no flood damage there. In fact his  
14 house was so damaged he had to knock it down. It  
15 was condemned by the building's department. Had to  
16 be, had to be torn down and rebuilt from scratch.  
17 To say that a home like this is not damaged due to  
18 the storm when he's a block away from the water and  
19 there was literally 10 feet of water outside the  
20 home it's ridiculous. How they thought they could  
21 get away with that it just mind boggling.

22 CHAIRPERSON TREYGER: And...

23 MITCHELL SHPELFOGEL: I have his report  
24 here.

2 CHAIRPERSON TREYGER: And, and the only...  
3 What, what really is kind of scary to hear is that  
4 the only way you found this out was because you  
5 happen to know that Mr. Weinberg lived in the  
6 neighborhood.

7 MITCHELL SHPELFOGEL: Yes.

8 CHAIRPERSON TREYGER: But if he did not  
9 and you didn't know who he was we, how could this  
10 have been found? I mean...

11 MITCHELL SHPELFOGEL: Well...

12 CHAIRPERSON TREYGER: ...this is what  
13 concerns me is that...

14 MITCHELL SHPELFOGEL: Well well that,  
15 that's exactly what we're...

16 CHAIRPERSON TREYGER: Yeah.

17 MITCHELL SHPELFOGEL: ...talking about.  
18 In, in Katrina it was much easier for them. Because  
19 the homes in Katrina, most of them were valued  
20 under 250 thousand dollars. So if all state that  
21 your wind and your flood and you got a check for  
22 250 thousand dollars you didn't care if wind paid  
23 for it or if FEMA paid for it. You're just happy  
24 that you got your 250 thousand dollars.

25 CHAIRPERSON TREYGER: Yeah.

2 MITCHELL SHPELFOGEL: And then when some  
3 people realized there was some problems because  
4 there were homes that were more expensive and the  
5 attorney started going hard after it the insurance  
6 companies wanted to protect themselves so they  
7 threw money at the attorneys and all the people  
8 that had claims walked away. Meanwhile they  
9 bankrupt the program. Seven, we, we estimate about  
10 17 million dollars, 17 billion dollars was stolen  
11 by the insurance companies from FEMA. And State  
12 Farm had to withdrawal from the program because  
13 they were complicit in a lot of this fraudulent  
14 reports. And the attorney who is representing them  
15 there not surprisingly was Jerry Neilson. He later  
16 then changed the way you do business. And instead  
17 of committing fraud to say it's all flood now  
18 you're committing fraud saying none, none of it is  
19 flood. So at the end of the day it's still the same  
20 fraud you're just pegging on something else. Before  
21 you wanted to peg it on the federal government. Now  
22 to peg it on the federal government one there's,  
23 you're going to get in trouble and two you'll make  
24 the program insolvent and you have no work.

2 CHAIRPERSON TREYGER: And, and I, I want  
3 to add another layer to this where this, I mean as  
4 it is when you steal from FEMA you're already  
5 hurting taxpayers but let me tell you how another  
6 way you're hurting taxpayers is that the way Build  
7 it Back calculates its formula it's what you get  
8 from your insurance company, it's what you might  
9 get from FEMA and, versus what the damages are to  
10 your, to your property. And then whatever the  
11 balance is that's where Build it Back tries to plug  
12 the hole. If your insurance company refuses to pay  
13 you or grossly underpays you who picks up the tab,  
14 the taxpayers. So that's where they're hurting us  
15 again.

16 MITCHELL SHPELFOGEL: And where they're  
17 hurting us even more...

18 CHAIRPERSON TREYGER: Yeah.

19 MITCHELL SHPELFOGEL: ...even more so.

20 CHAIRPERSON TREYGER: Yeah.

21 MITCHELL SHPELFOGEL: ...is because of  
22 what they're doing in the program.

23 CHIAR: Right.

24 MITCHELL SHPELFOGEL: They're just  
25 requiring the raising of premiums.

2 CHAIRPERSON TREYGER: Right.

3 MITCHELL SHPELFOGEL: So instead of  
4 raising premiums and making people pay four or five  
5 thousand dollars for their home and again they have  
6 no choice even if they want to take the risk which  
7 I would recommend but they have to because if they  
8 want to get a mortgage and they want to own a home  
9 which is every person's dream in this country...

10 [cross-talk]

11 CHAIRPERSON TREYGER: These are federal,  
12 federally insured mortgages.

13 MITCHELL SHPELFOGEL: Any federally  
14 insured mortgage must have a flood policy if you  
15 live in the flood zone. And all these people do,  
16 must get it pay between three to 5,000 dollars and  
17 in reality 50 percent of those premiums are going  
18 to the WYOs. It's not going to fund the program. So  
19 if you actually cut out the WYOs or cut out the  
20 fraud they're doing with the engineers with their  
21 adjustments with their attorneys now you're able to  
22 put in the same amount of money which actually  
23 would work well, one billion dollars a year would  
24 be sufficient, but you save a billion dollars in  
25 premiums that people could reduce their premiums.

1  
2 So let's say you feel you need more so put a  
3 billion and a half instead of two billion and still  
4 save people money. So it, it's just a vicious  
5 cycle, you're correct it just happened to have been  
6 that we knew Mr. Weinberg. And it just happened to  
7 have been in the Rami case where the engineer came  
8 a second time and had his original report with him  
9 and the Ramis took a picture with their iPhone of  
10 the original report. So, but for these situations  
11 they would have gotten away with all of this even  
12 though we knew there was fraud.

13 CHAIRPERSON TREYGER: Now I'm just  
14 curious to know is, does this, have we heard...  
15 we're, we're just talking about flood insurance.  
16 But now this opens up the discussion does this  
17 happen to other cases, not just flood insurance.

18 MITCHELL SHPELFOGEL: Correct.

19 CHAIRPERSON TREYGER: And so have you,  
20 have, because now Pandora box is opened. I also  
21 want to just tell my colleagues... And we've been  
22 joined by Council Member Eric Ulrich and Council  
23 Member Rosie Mendez.

24 COUNCIL MEMBER ULRICH: Happy birthday  
25 Mr. Chairman.

2 CHAIRPERSON TREYGER: Thank you. That's,  
3 thank you very much. More New Yorkers will now be  
4 required to purchase flood insurance.

5 MITCHELL SHPELFOGEL: That's correct.

6 CHAIRPERSON TREYGER: Thousands will be  
7 required now to purchase flood insurance. So this  
8 problem is actually going to expand. This issue  
9 will begin to expand.

10 MITCHELL SHPELFOGEL: And affect many  
11 more people.

12 CHAIRPERSON TREYGER: And so even if  
13 someone was not directly affected by Sandy this  
14 time or this storm it doesn't matter. FEMA is  
15 looking, is, is in the process now of redrawing the  
16 flood maps and anyone that will be in that flood  
17 zone who is going to be applying for a federally  
18 insured mortgage will be required to purchase an  
19 insurance plan. An that's a whole other discussion  
20 about the discrepancies between what the national  
21 flood insurance rates are and what the insurance  
22 companies are actually charging.

23 MITCHELL SHPELFOGEL: Correct.

24 CHAIRPERSON TREYGER: Which is a whole,  
25 whole other topic of, of a hearing. But we're

2 talking about almost the incestuous relationship  
3 between the insurance companies and these  
4 engineering firms...

5 MITCHELL SHPELFOGEL: And the adjusting  
6 firms.

7 CHAIRPERSON TREYGER: And the adjustment  
8 firms which is another conversation which, which we  
9 have to have and how there is, there is, there's  
10 actual incentive, what you're saying is that there  
11 is an incentive to, to underpay.

12 MITCHELL SHPELFOGEL: Yes.

13 CHAIRPERSON TREYGER: And that's what  
14 we're, they're taking advantage of. And basically  
15 by chance Mr. Weinberg was an honest, and we  
16 appreciate really this is, I think what you've  
17 done, your honesty and your service here will most  
18 likely lead to a national impact and change.

19 HAROLD WEINBERG: Who me?

20 CHAIRPERSON TREYGER: Yes Mr. Weinberg.

21 HAROLD WEINBERG: Wow, thank you so  
22 much.

23 CHAIRPERSON TREYGER: Because I, I  
24 believe that this will, this will reach, this  
25 already, this has now reached the office and we



2 appreciate New York Attorney General Eric  
3 Schneiderman who is currently conducting a  
4 criminal, criminal investigation. And can you tell  
5 the name of the insurance company that was...

6 MITCHELL SHPELFOGEL: The insurance  
7 company in this particular claim was Hartford  
8 Insurance.

9 CHAIRPERSON TREYGER: Hartford?

10 MITCHELL SHPELFOGEL: Hartford. The  
11 engineering company was High Rise Engineering. But  
12 as I said before this was a way for them to make  
13 money. I'll, I'll give you an example. US Forensics  
14 which is based out of Louisiana happens to live a  
15 few miles away from Jerry Neilson and know him for  
16 many years somehow got the contract to do  
17 approximately 70 percent of the engineering  
18 reports.

19 CHAIRPERSON TREYGER: They're based in  
20 Louisiana?

21 MITCHELL SHPELFOGEL: Yeah.

22 CHAIRPERSON TREYGER: The same state  
23 that went through the corruption trail stuff with  
24 Katrina?

2 MITCHELL SHPELFOGEL: Not only that.  
3 Gary Bell who's the CEO of US Forensics was a CEO  
4 of the, of a different company which was found to  
5 do the fraud. He just reincorporated. Same CEO.

6 CHAIRPERSON TREYGER: Hmm.

7 MITCHELL SHPELFOGEL: He together with  
8 the adjusting firm in those claims, Colonial Claims  
9 CEO Doug Brannon who also opened up a brand new  
10 company was the same CEO in the previous adjusting  
11 company during Katrina, they got all these  
12 contracts. And Gary Bell actually was boasting how  
13 in Sandy in a matter of a few months he went from  
14 having 10 people working for him to 30 people  
15 working for him then having to get outside  
16 engineers because he couldn't handle it and he made  
17 16 million dollars. And what did he do with that 16  
18 million dollars he perpetrated fraud and denied  
19 claims.

20 CHAIRPERSON TREYGER: What worries me is  
21 that you had some property owners who really  
22 questions their denial letters or their  
23 underpayments and you have some property owners who  
24 simply gave up. So it is very likely and possible  
25 that there are many people who have no idea that

1 they've been cheated out of money that they  
2 rightfully deserve.

3  
4 MITCHELL SHPELFOGEL: You're, you're,  
5 you're, you're 1,000 percent correct. In fact that  
6 is the game that they're, Jerry Neilson and, and  
7 WYOs play. They know that 60 percent and this is a,  
8 a statistic that someone want, I read somewhere, 60  
9 percent of people will lose just because of  
10 exhaustion because they just don't want to fight  
11 anymore. Because they're fighting a system. With  
12 my, with one of my claims with the Dweck case we  
13 had the two reports. We brought it to the insurance  
14 company, they said denied. We brought it to FEMA.  
15 They said denied. They're denying a fraudulent  
16 report. How do you fight this? How do you fight it?  
17 But I think people are becoming more aware of this.  
18 I'm getting calls on a daily basis from people  
19 saying is it possible that I was defrauded. My  
20 answer to them is maybe let me take a look at your  
21 stuff. FEMA has clam... has said that they're going  
22 to send out letters to 144 thousand claimants  
23 saying if you think... not everyone had fraud and I'm  
24 not here to say that every one of those claims were  
25 denied improperly or were underpaid but it's

2 possible. So people when they get the letters  
3 knowing about what's going on they should take a  
4 look at it and should say do I feel I was  
5 reimbursed properly. And if the answer is yes move  
6 on. If the answer is no then they should have  
7 someone take a look at it.

8 CHAIRPERSON TREYGER: What other, in  
9 addition to calling for, because I think one of the  
10 things we're going to call for is an independent  
11 engineering firm separate from any financial  
12 relationships with the insurance companies  
13 conducting these assessments. Are there any other  
14 reforms that you think both you and Mr. Weinberg  
15 feel that we should be pushing at the local level  
16 to our federal partners?

17 MITCHELL SHPELFOGEL: The requirement to  
18 keep to the statute. Do not create...

19 CHAIRPERSON TREYGER: Enforcement.

20 MITCHELL SHPELFOGEL: Enforcement. Do  
21 not create new requirements. You start off with a  
22 claim and they say get us all the receipts, then  
23 they start saying get us cancelled checks. And if  
24 you use cash and you're, some people pay some  
25 repairs by cash and you have your contractor sign

2 off saying I got paid that's not enough. Show us  
3 your bank statements where you withdrew this money.  
4 Now suddenly these requirements which are not part  
5 of the program, not a requirement, are making it  
6 impossible for people to get reimbursement. Another  
7 thing that's very necessary is keep to one  
8 adjuster. I have claims which literally went  
9 through eight adjusters. So you finish up. You got  
10 everything this adjuster wants to process your  
11 claim and suddenly oh I'm a new adjuster I want  
12 something different. Why would eight different  
13 adjuster want something different. Sometimes they  
14 go back to your third adjuster when you're on the  
15 eighth one and all they're doing is kicking the can  
16 down the road. People get exhausted. People don't  
17 want to deal with it anymore. People just give up.

18 CHAIRPERSON TREYGER: And as far as with  
19 FEMA internally and then we'll... next panel, just to  
20 be clear when we say there are, there are  
21 incentives to underpay because if an insurance  
22 company overpays then the insurance company is  
23 liable to pay back that money...

24 MITCHELL SHPELFOGEL: That's correct.  
25

2 CHAIRPERSON TREYGER: ...to, to FEMA, is  
3 that correct?

4 MITCHELL SHPELFOGEL: That's correct.

5 CHAIRPERSON TREYGER: But if an  
6 insurance company is found to have underpaid...

7 MITCHELL SHPELFOGEL: There are no  
8 penalties.

9 CHAIRPERSON TREYGER: ...and someone takes  
10 that insurance company to try such, court and  
11 challenge them FEMA covers the cost of litigation  
12 is that correct?

13 MITCHELL SHPELFOGEL: Correct. And, and  
14 this is actually one area where I think our state  
15 legislation can make a big difference. As opposed  
16 to a place like Florida or Texas or Louisiana New  
17 York does not have any bad faith statutes. That  
18 would affect both flood and wind insurers. So if an  
19 insurance company denies a claim or underpays a  
20 claim in bad faith there's no punishment for them  
21 in New York as opposed to another state a 30  
22 thousand dollar claim can cost an insurance company  
23 two million dollars if it's done in bad faith. So  
24 if they know the worst thing that could happen is  
25 I'm going to pay you the policy limits and nothing

1  
2 more then why shouldn't they deny it. You may get  
3 exhausted, you may not fight them. And meanwhile  
4 the attorneys are getting paid.

5 CHAIRPERSON TREYGER: So I, I want to  
6 thank you both... [cross-talk] Yes please Mr.  
7 Weinberg.

8 HAROLD WEINBERG: I do want to add  
9 something.

10 CHAIRPERSON TREYGER: Yes.

11 HAROLD WEINBERG: Since you're asking  
12 for engineering reports I want you to know that  
13 there were other engineers besides civil engineers...  
14 and there are other engineers who are not  
15 structural engineers. Therefore I would like you...  
16 I've, I would like, I'm requesting of you if you  
17 writing some regulations make sure that the  
18 licensed engineer is got a major in structural  
19 engineering. It'll help. Thank you.

20 CHAIRPERSON TREYGER: Absolutely. And I,  
21 and I, I thank you both. I think your work has  
22 resulted in the, the beginning of an investigation  
23 by the New York AG. We're hearing our federal  
24 partners say that there's talk of a possible  
25 taskforce. There's talk of hearings. But we're

2 going to continue to make this a big issue in New  
3 York City so we keep everyone accountable. So I  
4 want to thank you both for, for your work and for  
5 your service. And I believe at the end this will  
6 lead to major reforms at the federal level. Thank  
7 you very much.

8 HAROLD WEINBERG: My thanks to you.

9 CHAIRPERSON TREYGER: Thank you.

10 MITCHELL SHPELFOGEL: Thank you.

11 CHAIRPERSON TREYGER: Thank you. Next  
12 panel Andrea... Javier Ortiz, Logan Schiff, and John  
13 Corey. Alright I guess we'll start with Mr. Corey,  
14 work our way down.

15 JOHN COREY: Happy birthday as well. And  
16 thanks for having us. This is really interesting.  
17 The information I heard from the previous speakers  
18 has really blown me away. I knew there was a lot of  
19 issues and you know me when I come here I complain  
20 a lot about the Build it Back Program which I  
21 tapped into a little bit. But one of the things I  
22 did point out in my little comments was that FEMA,  
23 I mean the national flood insurance gave my home 43  
24 thousand dollars for insurance. Yet the Build it  
25 Back program appraisers came and said it was about



1  
2 300 thousand dollars' worth of damage. So the  
3 discrepancy is really incredible. But I think what  
4 needs to be pointed out is the, I guess the  
5 previous speaker mentioned about the, the flood  
6 insurance rates going up. And I mean with, with  
7 the... waters act it's, it's been, a lot of  
8 legislation has been put in place to kind of slow  
9 it down and suspend it. But people need to realize  
10 it's still going to be going forward and it's  
11 obvious that something's going on where that bigot  
12 waters act is to cover these future expenses that...  
13 liability is so incredible with the corruption from  
14 Katrina you know to, to obviously now Sandy. But  
15 the one thing I want to say about the, the person  
16 that came to assess my house; they, they, they  
17 claim that they were, had gone through Hurricane  
18 Katrina so they put me at ease that I know we went  
19 through and you know I'm, I'm with you 100 percent.  
20 And after speaking with a lot of my neighbors  
21 peninsula wide in the Rockaway Peninsula seems that  
22 everybody was told the exact same story. I came, I  
23 went through Hurricane Katrina and I, I lived it  
24 and so I, I felt so... they were lying. Lying,  
25 outright lying. And the gentleman was not... he was a

1 window installer from Oklahoma was the reality. You  
2 know I mean it's like... it's, it's just amazing how  
3 the, what's gone on and... But I do want to point out  
4 the, some of the solutions coming out of the  
5 Rockaways you know Eric Ulrich and Donovan  
6 Richard's been great and all the issues with, with  
7 Build it Back and... But some... trying to push  
8 legislation for a, a New York flood insurance  
9 program to kind of, let's get away from the  
10 national insanity that's... to hoax being perpetrated  
11 on you know us is what went on in, in New Orleans.  
12 And you know we really need to push to obviously  
13 what you guys are doing and the city council and  
14 pushing for major changes is very important what's  
15 happening to the people. Especially... I mean a lot  
16 of the speakers you know have gone through the  
17 issue of continuance, the storm that keeps on  
18 giving I keep saying you know. And we really need  
19 to get that, that, that really you know needs to be  
20 put out there that there's people still hurting you  
21 know and you know besides the, the nasty you know  
22 stealing of peoples' funding that should be going  
23 to them you know that there's still people not in  
24 their homes and that needs to be pointed out. You  
25

1  
2 know but I can go on and on. A lot has been said  
3 and I appreciate the chance... [cross-talk]

4 CHAIRPERSON TREYGER: No I thank you Mr.  
5 Corey because I think it, some of the issues you've  
6 raised particularly from your neighborhood is  
7 you've exposed how some of the federal regulations  
8 are prohibitive in releasing of, of money. And what  
9 we heard from the previous panel is there's  
10 actually incentives to underpay people. So you have  
11 regulations that are hindering payouts to victims  
12 and you have incentives to underpay or to not pay  
13 at all.

14 JOHN COREY: With also the knowledge  
15 that in five years down the road we're going to be  
16 paying 15 thousand dollars for flood insurance.  
17 People are going to be walking, it's going to  
18 become Detroit... [cross-talk]

19 CHAIRPERSON TREYGER: Sure.

20 JOHN COREY: ...going to happen.

21 CHAIRPERSON TREYGER: I want to just  
22 quickly call upon Council Member Eric Ulrich.

23 COUNCIL MEMBER ULRICH: Thank, thank you  
24 Mr. Chairman. I want to thank John Corey for coming  
25 from the Rockaways again as he does to all of these

1  
2 hearings to represent many of the homeowners and  
3 the residents out there who had been, who had been  
4 affected by Hurricane Sandy and still are  
5 struggling to recover. And I also want to  
6 underscore the chairman's remarks earlier regarding  
7 the totally subjective criteria that FEMA seemed to  
8 have used after the storm to reimburse people for  
9 damages that they incurred. And, and some of the  
10 shenanigans that also took place on the part of  
11 peoples' insurance companies which was really  
12 downright criminal. People paid faithfully for so  
13 many years, their premiums because in some cases  
14 they were required to if they had a mortgage and in  
15 other cases they weren't required to but they  
16 wanted to have it anyway. And the fact that they  
17 did not receive the just compensation from FEMA and  
18 then on top of that to get the shaft from your  
19 insurance company made matters all that you know  
20 made them just much, much worse. I can tell you and  
21 I don't have to remind any member of this  
22 committee. I have hundreds, maybe thousands of  
23 constituents who are still not living in their  
24 homes today. And we are approaching the third  
25 anniversary of the storm this October. And the fact

1  
2 that there will still be families with children  
3 that are not sleeping in their beds tonight or in  
4 October you know is wrong. And the city's doing  
5 what we have to do. I think we should do more. The  
6 state can do a lot more. I think that they, they  
7 should do more. The federal government didn't do  
8 enough quite frankly and I think they need to do  
9 more. And I want to applaud and thank the chairman  
10 of this committee for spearheading all of the call  
11 to action that we've had regarding these issues.  
12 But these hearings, it doesn't matter if there's  
13 ten people in this room or 100 people in this room  
14 we have to have these hearings. These are  
15 absolutely necessary because no one else is  
16 shedding the light on the issues that people are  
17 still struggling with. And nobody is reporting in  
18 the media that tonight those children are not  
19 sleeping in their beds tonight. And that's wrong  
20 and we'll have as many hearings as we have to have  
21 and we'll insist on those hearings but we have to  
22 do more. We're not doing enough. That's the bottom  
23 line. And thank you John and everybody who came to  
24 listen and to testify today. Thank you Mr.  
25 Chairman.

2 CHAIRPERSON TREYGER: No, sorry, I, I  
3 thank you Council Member. Actually I thank every  
4 member of this, this committee. This committee.. and  
5 it's not just the chair, it's every member of this  
6 committee represents areas that were impacted by  
7 the storm and they really have gone above and  
8 beyond the normal responsibilities of a council  
9 member to deal with this on a daily basis. And  
10 we've made some great impacts and changes at the  
11 local level. And we still have a lot more work to  
12 do. And believe me we're not, the city is not off  
13 the hook. But one of the things I want to make  
14 crystal clear to the public and to everyone is that  
15 so far what has not garnered enough attention in  
16 our opinion is the federal government's  
17 responsibility and a lack of accountability on  
18 their part to get this recovery right. Because as  
19 Council Member Ulrich mentioned if there are people  
20 who are still with, not in their homes you are  
21 hearing today that there are insurance companies  
22 that are saying that they're not in their homes not  
23 because of Sandy, not because of a storm but  
24 because of a preexisting condition of... It almost  
25 sounds like the health care debacle. So that's...

1  
2 and, and Mr. Corey when you mentioned that FEMA  
3 assessed damages to your property at 43 thousand  
4 and Build it Back 300 thousand.

5 JOHN COREY: Well they considered...  
6 damage that, and the tax department says the house  
7 is worth about a 550, 575. So you can do the math.  
8 But I just want to also point out in the packet I  
9 gave you this is a condition of my, the lower  
10 portion, my first floor to this day. You know it's  
11 like the, with 43 thousand dollars it'll be lucky  
12 if we can... You know there's other things I did  
13 repair that basically the porch was falling down  
14 into the ground so I did fix that with some of the  
15 money. But it's just, you know with the, with just  
16 the whole, the whole slow process of even Build it  
17 Back and that difficulty. But you know it's, it's,  
18 it's really a, you know you, like you did mention  
19 about the federal investigation. Like you take even  
20 our boardwalk in the Rockaway Peninsula it's half a  
21 billion dollars. And they've already gone over by  
22 74 million dollars. I mean it's just, it's  
23 insanity. And someone also needs to point out in  
24 these investigations in the future is there was  
25 supposed to be a, a good oversight on, on price

2 gouging. I and evidently with things like this and  
3 people's homes and like, even with, with Scott  
4 Stringer's report, the, the controller's report  
5 about contract... and... price gouging just in the  
6 Build it Back Program.

7 CHAIRPERSON TREYGER: Well... [cross-talk]  
8 ...follow-up hearings on Build it Back and including  
9 on the controller's report and we'd love to welcome  
10 you back to that as well.

11 JOHN COREY: Alright thank you.

12 CHAIRPERSON TREYGER: ...hear from the  
13 whole panel. And I thank you Mr. Corey. Please.  
14 Sure.

15 Thank you. Good afternoon. Thank you  
16 for the opportunity to testify and for the work  
17 you're doing. I'm Logan Schiff the director of the  
18 Disaster Recovery Unit at Staten Island Legal  
19 Services. I mostly want to echo the points that  
20 have already been made. First underpayments have  
21 been systematic and, throughout this process and go  
22 way beyond the engineering reports. Although those  
23 often are the most egregious underpayments. We see  
24 it for claims for contents, small claims for  
25 structure where the, the adjusters like the



1  
2 engineers are systematically underpaying. They're  
3 not using realistic values for the cost of labor  
4 and materials in New York City or just you know  
5 good old fashioned low balling or they're denying  
6 coverage for things that clearly should be covered  
7 under... policy. The other point, these are the same  
8 players that are involved in the homeowner's  
9 insurance sector who also routinely did... You, you'd  
10 made this, asked about this, but they did routinely  
11 underpay people for Sandy claims for wind, rain,  
12 sewer backup. So it's the same players and it  
13 really is indicative of a broader industry practice  
14 of underpayment that, that merits further inquiry  
15 beyond just the flood insurance... I'd also make the  
16 point that the FEMA appeals process as, as someone  
17 said earlier was entirely a rubber stamp. There was  
18 no independent oversight or meaningful review. It's  
19 just unbelievable of the cases that they just you  
20 know approve the initial determination in light of  
21 completely compelling evidence to the contrary. And  
22 I'll give you... In our written testimony we  
23 highlighted I think about nine or 10 examples. I  
24 won't go into all detail today but I'll just give  
25 you one example related to that issue. We had a

1 home in Staten Island. Over 10 feet of water came  
2 into the home. It was red tagged, condemned,  
3 demolished by, by the city. Department of Buildings  
4 issued a report finding the home had been  
5 completely structurally compromised by flood  
6 damage. The Staten Island Borough President in this  
7 case paid for an architect to do a report who also  
8 found there was flood damage. We were able to get  
9 funding for our public adjuster who did a detailed  
10 report finding 272 thousand dollars in damage  
11 caused by flood. It was a 250 thousand dollar  
12 structural policy. They paid out about 49 thousand  
13 dollars finding preexisting conditions again. And  
14 we, you know we put together a comprehensive appeal  
15 which you think with, this is not just two against  
16 one, this is three against one. But of course FEMA  
17 sided with, with the engineers. This was not one of  
18 the two companies implicated as having altered  
19 draft reports. So it, so even with the engineering  
20 context it goes way beyond that. And they similarly  
21 denied it. Another, another case, a 100 thousand  
22 dollar contents claim for homeowners also with a  
23 home that was completely destroyed in Staten  
24 Island. They were initially paid zero by the  
25

1 insurer because they couldn't produce detailed  
2 photographic evidence of all their possessions and  
3 receipts for the purchase of all the items. The  
4 reason they couldn't do this is because the home  
5 had been completely destroyed. Thankfully in that  
6 case we were able to come in, advocate for the  
7 after months of negotiation we got them 84 thousand  
8 dollars in contents coverage. But as you pointed  
9 out earlier there's undoubtedly thousands of  
10 homeowners who did not get a private attorney or  
11 didn't get a, a public interest attorney to help  
12 them and who just gave up and were underpaid so, so  
13 I'm, I'm sure there are many more examples like  
14 this where, where, where the homeowner was  
15 underpaid, maybe left New York, maybe is, is still  
16 waiting for, for assistance from Build it Back but  
17 it's, it's absolutely a tremendous problem. We  
18 also, I won't go into too much detail but we, we  
19 provide some recommendations for the claims  
20 reexamination process how it can avoid being mired  
21 by many of the, the problems that, that happened.  
22 It starts I think with the notice. It's great that  
23 they're sending out you know 144 thousand notices  
24 but it needs to be a really simple understandable

1 notice for homeowners. I know from my experience in  
 2 foreclosure prevention that a lot of the more  
 3 complex notices that are sent out are just ignored  
 4 by homeowners. So it's going to have to be  
 5 something simple with a, with a 1-800 number or  
 6 other option for, for initiating the claim. And it  
 7 has to be language accessible. And they also have  
 8 to think about the fact that many homeowners are  
 9 still displaced. They may not have the right  
 10 address. They may be sending these to vacant  
 11 properties, I wouldn't be surprised with a 30 day  
 12 timeline you know deadline to respond. So there  
 13 needs to be outreach to identify affected  
 14 homeowners throughout the city.

16 CHAIRPERSON TREYGER: Well I, I couldn't  
 17 agree more. And that's why I think our resolution's  
 18 calling them to look over every single one. Because  
 19 their, their approach is that they're going to send  
 20 letters out and if you respond to them then they  
 21 will follow up. But every single case needs to be  
 22 reviewed. I think that we have just exposed the tip  
 23 here. We haven't gone through the whole case. I  
 24 mean, and now these, semi, we, we heard and our,  
 25 our, it's on our research that some of these

1 insurance companies have thousands of policies.  
2 It's not like it just... so it just happened as you  
3 mentioned by happenstance some of them got exposed  
4 here but not everything. So there are many property  
5 owners who have no idea that they've been cheated  
6 out. And that's why, and as you mentioned that what  
7 notice will they send them. Some people if it's not  
8 clear, if it's very vague and they might throw it  
9 out as junk mail or if they're even home. As  
10 Council Member Ulrich mentioned before that not  
11 everyone is home yet. So how would he know that  
12 they're actually getting it to these people. Build  
13 it Back is having difficulty reaching everyone who,  
14 who, who first signed up to the program, who now  
15 have become unresponsive. So how is FEMA now going  
16 to magically solve that problem. So I agree with  
17 you 100 percent. And any other suggestions you have  
18 please let us know because we're preparing a  
19 package of resos, and not just, we're not going to  
20 just simply introduce them here in the council.  
21 We're going to take it to the streets, take it to  
22 the media and hold our federal officials, work with  
23 them but hold them accountable to get this on the  
24 national stage. Because we need federal action  
25

1 here. So I thank you very much for your, for your  
2 advocacy.  
3

4 LOGAN SCHIFF: Thank you.

5 CHAIRPERSON TREYGER: Thank you. Please.

6 JAVIER ORTIZ: Thank you. Chairman  
7 Treyger, council members, and staff good afternoon  
8 and thank you for the opportunity to speak about  
9 the city's calling on FEMA's national flood  
10 insurance program to reexamine the claims related  
11 to Superstorm Sandy. My name is Javier Ortiz and  
12 I'm a staff attorney at the New York Legal  
13 Assistance Group specifically in our Storm Response  
14 Unit. NYLAG is a nonprofit law firm dedicated to  
15 providing free civil legal services to the most  
16 vulnerable New Yorkers including victims and  
17 survivors of Superstorm Sandy. As you know on  
18 October 29<sup>th</sup>, 2012 Superstorm Sandy reached the  
19 shores of the city of New York causing extensive  
20 and unprecedented flooding in much of lower  
21 Manhattan, Brooklyn, Queens, and Staten Island.  
22 According to a 2013 report by the Rand center for  
23 Catastrophic Risk Management and Compensation at  
24 the time of Superstorm Sandy there were  
25 approximately 25,916 active NFIP policies in the

1 greater New York City area. As of February 2013  
2 16,264 claims had been filed for flood losses  
3 attributed to Sandy. FEMA reported that it had  
4 closed 81 percent of these claims and as of date,  
5 as of date, and with an average of only 54 thousand  
6 dollars. We at NYLAG believe this to be an  
7 inaccurate reflection of the number of New York  
8 City homeowners who received adequate coverage.  
9 NYLAG storm response unit has assisted and  
10 continues to assist more than 300 New York City  
11 residents with Sandy flood insurance disputes. We  
12 have achieved more than a million dollars in  
13 monetary benefits for these clients. However the  
14 number of clients who have been erroneously not  
15 coverage or underpaid on their claims far exceeds  
16 those who have been made whole. Thus we commend the  
17 council for supporting this resolution. We further  
18 acknowledge that FEMA has committed to taking  
19 aggressive steps to assure that all Sandy survivors  
20 would be, receive another review of their NFIP  
21 claims. NYLAG further acknowledges that FEMA has  
22 engaged with legal services and community  
23 organizations in New York and New Jersey to discuss  
24 our concerns and recommendations. As NYLAG will  
25

1 discuss our collective recommendation is that any  
2 reexamination must implement different procedures  
3 and standards to assure that the original  
4 problematic process is not repeated. As highlighted  
5 by the Ram report one of the most prevalent  
6 challenges that resulted in limited NFIP payouts to  
7 homeowners is coverage gaps. Perhaps the biggest  
8 and most controversial coverage gap is the earth  
9 movement exclusion. The standard flood insurance  
10 policy or the SFIP excludes coverage for damage  
11 caused by earth movement even if the movement was  
12 caused by the flood waters. Whether damage was  
13 caused by earth movement or not and therefore not  
14 covered under the SFIP is something that can only  
15 be determined by a licensed engineer which, which  
16 mentioned before could cost up to 500 to 15 hundred  
17 dollars. And that's to challenge and earth movement  
18 denial. Moreover even when survivors can afford to  
19 hire a competing engineer this engineer's report,  
20 these engineer's reports are often denied  
21 arbitrarily due to alleged inadequate detail or  
22 failure to comply with policy technicalities. This  
23 occurs even when the client or claimant is  
24 requesting coverage for items explicitly covered  
25



1 within the SFIP. For example NYLAG represented a  
2 single senior homeowner who submitted a claim to a  
3 write your own insurance company WYO for flood  
4 related damage to her footings and her crawl space,  
5 an item explicitly covered under the SFIP. Her  
6 estimated cost for repair was around, was only  
7 5,000 dollars. However her claim was denied by the  
8 WYO relying solely on its own engineer's report  
9 which alleged the presence of differential movement  
10 and lack of damage caused by hydrodynamic forces  
11 i.e. water damage. Despite NYLAG's challenge to  
12 this report with the competing engineers report  
13 that concluded the perverse the WYO continued to  
14 deny her claim. In response to the insureds  
15 competing report the WYO only submitted a  
16 supplemental engineers report stating that they  
17 could not rule out damage by hydrodynamic forces.  
18 Given this homeowner's limited resources fatigue  
19 from the process and low cost for coverage sought  
20 it was no surprise that she simply just gave up.  
21 Another problematic issue that impeded most of our  
22 clients from receiving a fair flood payout was the  
23 documentation standards required by the WYOs. While  
24 Article 7J subsection 3 of the SFIP permits insured  
25

1 to attach all bills, receipts, and related  
2 documents to support a claim in practice WYOs  
3 refused to accept receipts or bills unless they  
4 include a line by line room by room itemization  
5 with quantity, square footage, location,  
6 description, unit price, and cost. Furthermore WYOs  
7 routinely challenge this, this efficiency of any  
8 form of estimate. Shortly after Sandy WYOs refused  
9 to, refused us... that we're allegedly insufficiently  
10 detailed. Later in the recovery WYOs began to  
11 refuse to consider estimates outright. This  
12 practice egregiously contradicts FEMA's explicit  
13 policy in subsection 4F that allows for  
14 specifications and damaged properties and detailed  
15 repair estimates. WYO, WYO's documentation  
16 standards place an unduly high burden on low to  
17 moderate income insureds. Most homeowners in New  
18 York City are unable to compel contractors to  
19 provide the level of detail demand, demanded by  
20 WYOs. Even in cases where they can WYOs, WYOs find  
21 inadequacies. For example NYLAG assisted a  
22 homeowner who was involved with a lawsuit with her  
23 contractor who provided inadequate services. Per  
24 settlement the contractor was compelled to provide  
25

2 copies of detailed invoices for labor and  
3 materials. The contractor provided the homeowner  
4 with more than ten itemized invoices precisely  
5 corresponded, precisely corresponded to line items  
6 in the WYO's adjuster's report. However even in  
7 this case the WYOs refused to grant further relief  
8 alleging among other things that they were, their  
9 documents were insufficient. Another common issue  
10 that prevented homeowners from receiving adequate  
11 flood insurance payouts is the WYO's reliance on  
12 the improvement basis for denial. This procedure  
13 allows WYOs to disallow coverage for replacement of  
14 damaged property if the WYO deems the replacement  
15 to be better than the original or not of like kind  
16 or quality. This basis for denial does not take  
17 into account the practical and realistic post storm  
18 considerations. Specifically homeowners often,  
19 often improve storm damaged homes either because  
20 city code mandates it or because in kind items are  
21 not reasonably available thus improperly limiting  
22 their relief. Finally there have been several cases  
23 where WYO claims adjusters had been a barrier for  
24 adequate flood relief which was mentioned before.  
25 Specifically Sandy adjusters have often lacked

2 knowledge for, or discounted disaster capitalism  
3 which as is common during post storm events  
4 constrains, constraints apply and high demand  
5 frequently causes the price of labor and materials  
6 to increase. So in conclusion we at NYLAG advocate  
7 that any NFIP reexamination process be carefully  
8 designated to avoid the same problems. Our specific  
9 recommendations include one that FEMA, FEMA's  
10 administrative reexamination process be  
11 transparent, accountable to insureds and  
12 consistent, two that NFIP insureds who did not file  
13 lawsuits receive the same relief as those who did,  
14 three that the presumption of coverage and  
15 evaluation lie in favor of the insured, four that  
16 FEMA provide claims representatives, adjusters,  
17 and/or engineers with realistic claims processing  
18 standards based on the information and documents  
19 insureds can reasonably provide two and a half  
20 years, almost three years after Sandy that, five  
21 that FEMA reform its NFIP processing practices to  
22 ensure that these problems will not occur to future  
23 NFIP claimants. Finally we recommend that FEMA and  
24 the city engage directly to address and educate the  
25 public on the duplication of benefits issue with

1 Build it Back upon the reopening of these claims.  
2 We ask that insureds be provided with all the  
3 necessary means to make an informed decision on  
4 pursuing reopening of their flood claims in light  
5 of the potential impact on their Build it Back  
6 case. We thank the council for convening this  
7 hearing and welcome the opportunity for, to further  
8 discuss and comment on these matters in the future.  
9 Thank you.

11 CHAIRPERSON TREYGER: Thank, thank you  
12 very much for a very well detailed testimony. And  
13 do you have any initial thoughts, reactions on us,  
14 in addition to our resolution today but calling for  
15 an independent engineering firm outside of what the  
16 insurance company hires to conduct these  
17 assessments? Do you have any initial thoughts or  
18 reactions to that?

19 ANN DIBBLE: Hi, I'm, my name is Ann  
20 Dibble. No I'm a supervising attorney at the New  
21 York Legal...

22 CHAIRPERSON TREYGER: Sure.

23 ANN DIBBLE:...Assistance Group working  
24 with Javier. So you know again as we said during  
25 out testimony we, we do have to commend that FEMA

1  
2 has reached out to the legal services and nonprofit  
3 communities in New Jersey and New York State to  
4 discuss some of our collective concerns and  
5 recommendations. And so the recommendations we make  
6 today are broader than you know... we have many, we  
7 have pages of recommendations. So these are some of  
8 the broader points that capture a lot of our  
9 specific recommendations. There has been some talk  
10 of, of how the evaluations will take place and how  
11 they will accommodate having a neutral kind of  
12 advisory panel. So I definitely think that there is  
13 a, possibly a place for a neutral, a, a neutral  
14 panel of experts. And I think you know support from  
15 the city could be a, a good alternative to having  
16 it either be something that's in some shape or form  
17 under the supervision of FEMA. So you know there's  
18 been some talk of having an advisory panel from the  
19 collective like homeowner friendly community of  
20 advocates that have, that people who have worked  
21 with advocates but possibly having it vetted  
22 through the city might be more, might provide  
23 better oversight in that. So I do think it's a,  
24 it's a, it's a possible solution that could work in  
25 this current program.

2 CHAIRPERSON TREYGER: Yeah because to me

3 I think that we've kind of, we've now, we've now  
4 learned that there is actual incentive to underpay.

5 And... and I, I just... how many cases has FEMA you  
6 know... we, by the way we asked FEMA to be here today  
7 for the record. And, and they, they declined. But  
8 how many cases have they found of, of underpayment?

9 And there's no incentive to look for that. There's  
10 incentive to do it. But then what you really, what,

11 what really disturbs me is hearing from the  
12 engineer a person who I admire his honest basically  
13 say that what I gave, what, what he gave to them

14 was to what ultimately was given to the property  
15 owner. And that should be a wakeup call to

16 everyone. Whether or not the city of New York has  
17 jurisdiction over insurance companies it should be

18 a wakeup call to this council, to this mayor, to  
19 the governor, all of our officials that people who

20 have gone through the worst disaster, natural  
21 disaster in their lives in addition to the

22 governmental bureaucracy are now being cheated out  
23 from private, from the insurance company. And that

24 has an impact on Build it Back as you pointed it  
25 out. And you mentioned before the duplication of

1 benefits. That's a whole other discussion. Because...  
2 I don't want to, this is not a Build it Back  
3 hearing but it takes me back to the hearing where  
4 people were told by the government take a loan,  
5 take a loan immediately. And now that loan is  
6 coming back to haunt them. But that's what they  
7 were told. And that's, that, what other recourse  
8 did they have. See that's another regulation that,  
9 I think it's a HUD regulation that is standing in  
10 the way of people getting what, what they  
11 rightfully... because it's, they have to pay that  
12 back plus interest. But this issue is that because  
13 insurers have underpaid Build it Back in Theory now  
14 pays the difference in what FEMA gave and what the  
15 insurance between what the damage actually was. Now  
16 I, I'm just curious to know what happens if FEMA or  
17 the AG's office exposes that insureds company  
18 underpaid and they get, they have to pay the person  
19 more. Is not Build it Back going to go back and now  
20 reexamine how much they gave them and put them  
21 through more mess? Because that's a concern that we  
22 have for, for these victims.

24 ANN DIBBLE: And I think that's a  
25 concern we definitely share. We have a very vested



2 interest in homeowners having this opportunity to  
3 be subject to a revaluation of their claims. But  
4 for homeowners to be able to make an educated  
5 decision about pursuing this bearing in mind that a  
6 lot of homeowners are just simply fatigued and  
7 exhausted by their experience over the last two and  
8 a half years from various different levels of  
9 advocacy trying to get recovery. Having a clear  
10 message and trying to accommodate homeowners as  
11 best as possible within the constraints of a law is  
12 going to be a, I think a, a great challenge for the  
13 city and for FEMA.

14 CHAIRPERSON TREYGER: From the advocacy  
15 point of view you're saying that, and you have some  
16 data in there about how many people had NFIP, had a  
17 federally insured mortgage and had to get flood  
18 insurance and how many claims that were, you had  
19 some data in, in your testimony. Have you  
20 encountered many people turning to you since this,  
21 since this has gotten more exposure have more  
22 people turned to you now for help and assistance in  
23 reviewing their cases?

24 ANN DIBBLE: We've definitely gotten a  
25 large number of, we've had an uptake in inquiries

1  
2 from both former clients, existing, and new, new  
3 constituents calling about what they're seeing in  
4 the news, about the fraud allegations. And so we've  
5 been focusing a lot of our energies on education in  
6 light of this perspective act of reexamining these  
7 claims and also trying to prepare folks to be able  
8 to make a decision when that becomes available to  
9 them.

10 CHAIRPERSON TREYGER: Does, and what can  
11 the city do to help you and to help organizations  
12 like yours effectively advocate on behalf of Sandy  
13 victims.

14 ANN DIBBLE: I mean I will say that at  
15 this point we are cautiously optimistic that FEMA  
16 will adopt some of our recommendations. These  
17 recommendations have to be carefully tailored to  
18 factor in that this reevaluation is happening  
19 because two and a half years ago mistakes were  
20 made. And so there are certain things that we  
21 expect...

22 CHAIRPERSON TREYGER: Oh I just, I just  
23 want to be very clear that was not a mistake that  
24 was made. I mean I know we're... It seemed, I mean I,  
25 I'm not a judge but it seems to be pretty blatant

1  
2 what, what's, what's going on. But I just wanted to  
3 be very clear on that. Please.

4 ANN DIBBLE: Absolutely.

5 CHAIRPERSON TREYGER: Sure.

6 ANN DIBBLE: So to address these errors  
7 there has to be certain leniencies in favor of  
8 homeowners and that was one of our recommendations  
9 and that's something we feel very strongly about is  
10 that in our advocacy in the administrative process  
11 legal services advocates have routinely provided  
12 affidavits from homeowners to supplement  
13 documentation gaps. And these documentation gaps as  
14 we stated during our testimony are primarily  
15 because of homeowners having to rely on third  
16 parties that they can't control. And so in the  
17 reevaluation process we're asking that the  
18 presumption lie in favor of homeowners and not that  
19 these affidavits that had been submitted in the  
20 past be just outright denied. Absence an actual  
21 allegation of fraud we see no reason why homeowners  
22 should not be given the benefit of the doubt  
23 especially bearing in mind that it's two and a half  
24 years later and they can't recreate what the damage  
25 was at the time immediately after Sandy. And that's

1 a big recommendation that we have in this  
2 reexamination process. We think having additional  
3 experts that are neutral be able to assess claims  
4 that can't be resolved will would be really  
5 valuable. But we think at the end of the day given  
6 the circumstances homeowners have to be given the  
7 benefit of the doubt unless there's a reason not  
8 to. And in, in a lot of our advocacy you know we've  
9 provided a lot of affidavits. We work hard with our  
10 clients to be clear about what their, what their  
11 statement of acts are and to have that support,  
12 their documentations that they're, they are able to  
13 provide. And as Logan testified and as other folks  
14 have testified today the documentation is just,  
15 just routinely just denied.

17 CHAIRPERSON TREYGER: I, I just want to...  
18 two things and then we'll... You're saying that  
19 you're cautiously optimistic that FEMA will  
20 implement a series of changes. The, the one concern  
21 I have is that if... and this is something we're  
22 going to discuss with Build it Back by the way.  
23 This is an ongoing thing. If FEMA is going to  
24 require the companies to pay the, the, the policy  
25 holder more money because they found no evidence of

1  
2 underpayment is this now going to reopen Build it  
3 Back and trigger a whole new round of review and  
4 put the person through another round of a mess that  
5 they've already been going through for two years  
6 post sandy. Yes could someone answer the question.

7 JAVIER ORTIZ: It absolutely will  
8 because of HUD rules on duplication of benefits.  
9 Some people will benefit because not, because you  
10 know if they got reimbursement for instance from  
11 Build it Back, Build it Back only pays out 60 cents  
12 on the dollar so they're better off getting you  
13 know the insurance proceeds and getting 100 cents  
14 on the dollar. Or you know in the case of the SBA...  
15 loans. If getting additional insurance... would  
16 reduce your eligible SBA loan amount. So in those  
17 cases it could help you. So there were, there were  
18 certainly a number of people who could still be  
19 helped by this but in many many cases it will just  
20 open up a new duplication of benefits can of worms  
21 and could end up just causing more stress and, and  
22 no positive benefit to the, to the homeowner. It  
23 will benefit the build it back program if they, if  
24 they obtain additional proceeds which I guess is a,  
25 is a small benefit...

2 CHAIRPERSON TREYGER: I mean... I know I'm  
3 not, I'm not an attorney but I know that there's  
4 sometimes when people could sue they sue for  
5 emotional, emotional distress and damages. I think  
6 that that is not a duplication of...

7 JAVIER ORTIZ: Exactly.

8 CHAIRPERSON TREYGER: ...gone through  
9 quite a bit.

10 JAVIER ORTIZ: Depending on how its  
11 structured if its, if the, if the payout is not for  
12 structural damage, if it's for emotional distress  
13 or... I don't know whether FEMA has the authority  
14 legally to, to issue payments that aren't... [cross-  
15 talk]

16 CHAIRPERSON TREYGER: Because here's the  
17 issue. We're dealing with two federal, separated  
18 federal agents; FEMA and HUD. And it's the HUD  
19 regulation that is, that, that we're dealing with  
20 with this duplication of benefits and services  
21 right, that's what we're dealing with. So FEMA says  
22 hey we'll order them to pay you out but then the  
23 HUD money is the one that's, that's really becomes  
24 an issue, is that correct?

2 JAVIER ORTIZ: Exactly. But, but HUD  
3 will only consider it a duplication of benefits if  
4 it's for, for structure. So if they, if they can  
5 somehow structure the payments so they're not  
6 considered for dem [phonetic], you know for, for  
7 pain and suffering or...

8 CHAIRPERSON TREYGER: What's...

9 JAVIER ORTIZ: Or for emotional distress  
10 then, then I think most likely would not be  
11 considered duplicative.

12 CHAIRPERSON TREYGER: Well then maybe I  
13 appreciate that. Because that's very useful  
14 feedback because we should, we should write that  
15 down because we need to again package this to, to  
16 our, to our federal officials. I mean, and lastly  
17 when the, when we had Sandy Build it Back when it  
18 was first formed was really supposed to have like a  
19 case management, and we learned about the problems  
20 with that right? And we're still learning about the  
21 problems with that. Some of the consultants... But I  
22 think that, one of the things that I think we need  
23 to have, make sure is that not only does each  
24 victim deserve a case manager but an advocate. A  
25 case manager can deal with the day to day paperwork

1  
2 and dealing with the different recoveries but to  
3 have an advocate, to have someone with some legal  
4 background, of some knowledge of these regulations  
5 to look out for this very issue as well. And did  
6 that happen and what's happening now if someone  
7 could speak to that.

8 ANN DIBBLE: I mean I will say that in a  
9 ideal world you would not need a legal expert to  
10 advocate on your behalf. I think the unfortunate  
11 reality is that you do. These, this SFIP policy  
12 requires technical expertise.

13 CHAIRPERSON TREYGER: Yeah.

14 ANN DIBBLE: And that's also an area of  
15 concern for us as we kind of raise recommendations  
16 with FEMA. As we already have heard from homeowners  
17 we're getting calls in relation to the, you know  
18 the press, the coverage on the fraud issue. And  
19 we're already hearing calls from homeowners who are  
20 saying I've been, I've been contacted by this  
21 attorney who's offering a retainer on contingency  
22 of 30 to 40 percent if I hire them for this  
23 undefined reevaluation process. And that would be a  
24 huge detriment to these homeowners because not only  
25 are, is it a huge cost but they end up, they're



2 going to end up paying out of pocket because  
3 anything that's recovered if the duplication of  
4 benefits issue isn't resolved that's literally  
5 going to be money that they're just going to have  
6 to pay that they do not have in addition to their  
7 recovery. So we have concerns about, about  
8 aggressive tactics by the private bar. We as a  
9 legal services community are trying to engage with  
10 FEMA so that we can address it as early as possible  
11 to be available for education and outreach. But you  
12 know it's also true that depending on how long  
13 these things take there may be limited resources.  
14 We just...

15 CHAIRPERSON TREYGER: Well...

16 ANN DIBBLE: ...dealt with the DCMP  
17 program funding kind of issue and...

18 CHAIRPERSON TREYGER: I will say this,  
19 you know the, the mayor did announce in his state  
20 of the city and is pushing in the budget that in,  
21 for example in areas that will, that will  
22 experience rezoning he is going to be putting money  
23 for legal assistance to those people who might be  
24 victims of eviction or gentrification. Well I think  
25 that we need to have a serious conversation about

1 making sure we have legal representation for  
2 victims of people have gone through like Sandy like  
3 events. Because as you mentioned this is a city  
4 state federal legal mess that we still have to  
5 really untangle here. And so even I think lawyers  
6 have to catch up to the changing regulations of  
7 FEMA. It's, it's an ongoing influx situation. And  
8 so could you imagine if, if our agencies have  
9 difficulty grappling with these complex regulations  
10 how do residents deal with these things. And, and  
11 attorneys have to keep up with the latest trends.  
12 And now FEMA's going to, I guess at the conclusion  
13 of their analysis they'll come up with new  
14 recommendations but I think we need to consider  
15 codifying new recommendation, not just simply  
16 saying one time exception. So I appreciate all of  
17 your feedback and testimony and it will certainly  
18 be taken into account and I think that in prompt...  
19 to require more resolutions and more conversations  
20 with our federal partners. So I thank, I thank the  
21 panel. Thank you.

23 CHAIRPERSON TREYGER: Yes Mr. Corey.

24 JOHN COREY: I, I did include the... for  
25 my house... the coordination of benefits worksheet,

1  
2 it's on the second page. You can just... You can kind  
3 of get the point you're making about what happens  
4 if they give me more money.

5 CHAIRPERSON TREYGER: Yeah.

6 JOHN COREY: And you know fortunate I  
7 didn't take the SBA loan because I was advised not  
8 to which was good. But basically even to this day I  
9 still, according to them when they come to raise my  
10 house I have to give them 20 thousand dollars of my  
11 own, well not my own, it would be of my own but  
12 they're, they're assuming it's money left over from  
13 the insurance company that doesn't exist. So...

14 CHAIRPERSON TREYGER: And just looking  
15 at this. I mean to expect a resident who's still  
16 probably going through so much personally from,  
17 from this storm just to kind of go through each  
18 thing here. I mean I don't know if you have copies  
19 of this but it's, I, I, I really, I feel for you  
20 John. This...

21 JOHN COREY: Yeah...

22 CHAIRPERSON TREYGER: ...is, this is, this  
23 is an absolute...

24 JOHN COREY: Plus trying to live life...

2 CHAIRPERSON TREYGER: This, this is a,  
3 this is a complete mess that they've just put on  
4 your doorstep and say here you go... [cross-talk]

5 JOHN COREY: ...just point out, that came  
6 from Build it Back. Six weeks ago they told me the  
7 next knock on my door will be from engineers to  
8 raise my house. That came yesterday talking about  
9 the mess of Build it Back and that whole situation  
10 with documentation. They said we were done with any  
11 paperwork, don't have to sign, and that came  
12 yesterday so that's...

13 CHAIRPERSON TREYGER: Well there's going  
14 to be another hearing on Build it Back.

15 JOHN COREY: I appreciate it.

16 CHAIRPERSON TREYGER: And I, and I, I  
17 thank again, thank you all. Thanks so much. Okay  
18 having heard from the last, at least the last  
19 panel. Oh someone signed up? Oh. Did someone... Is it  
20 Andrea? Oh yeah we already called you Andrea. Yeah,  
21 it's okay yeah come up. Sure. It's alright. Please  
22 you may, may begin.

23 ANDREA: Okay. Hi. Thanks for having me.  
24 I, I can't concur more strongly regarding the  
25 testimony from NYLAG. I wonder if they're going to

1  
2 get deluged. At the same time I wonder how many  
3 people are aware of them. I think a lot of people  
4 are not aware, aware that there's advocacy. I  
5 certainly wasn't when I filed my claim. Also the  
6 NFIP and WYOs and the assessors use Xactimate  
7 software. And for NYLAG I, I understand that if  
8 contractors learn Xactimate they have a better  
9 chance of getting an accurate damage assessment. So  
10 I don't know how many New York City contractors  
11 actually know that program but if they can actually  
12 get that training they can work the numbers so that  
13 the, the policy holder actually gets a better  
14 outcome. And I don't think enough people are aware  
15 of that. And also Build it Back uses Xactimate. So...  
16 I, I'm just going to jump forward. So it's not only  
17 engineering obviously, it's lowballing practices in  
18 general. And in my experience low balled claims  
19 lead to chronic cycles of losses so that whereas  
20 the city's mandate is resiliency the way these  
21 claims are handled we're, we're, we're in for it.  
22 And I feel that the, the WYOs and FEMA are  
23 incredibly complicit it even seems purposeful on  
24 their parts in, in how they handle claims. Because  
25 like it was discussed also by NYLAG the like for

1  
2 like thing not only will they not cover something  
3 that's not like for like if you do something that's  
4 even moderately an improvement, a resilient  
5 improvement, a mitigating improvement such as  
6 elevate your meters, your electric to... flood  
7 elevation they will not cover it. That's a, for us  
8 it was a 6,000 dollar cost. They told us to put the  
9 meters back where they were but of course Con-Ed  
10 wouldn't allow the meters to go back in the  
11 crawlspace. And they absolutely would not cover the  
12 cost of raising meters because they claimed it was  
13 to new code, it wasn't to new code at the time. It  
14 was just a cost they did not want to cover. And you  
15 can use that analog for every single line item that  
16 happened to be a particularly costly one but also  
17 critical to recovery. Because if one meter goes  
18 down on a block it can trip the transformer for the  
19 entire block. So if we all had incentives to  
20 elevate our meters next time around our recovery  
21 will be that much faster and less expensive. The  
22 NFIP does not encourage mitigation, it penalizes  
23 mitigation. There are efforts underway with FEMA  
24 right now to create mitigation credits and that's a  
25 great thing and everyone should be educated about

1  
2 that and advocate for them. Substantive partial  
3 mitigation credits, it's section 26 of HR33-70 the  
4 Homeowners Flood Insurance Act. But we also need to  
5 advocate that the way claims are handled does not  
6 penalize mitigating improvements but covers them.  
7 Because otherwise this is not only severe  
8 repetitive loss it's chronic moderate repetitive  
9 loss. And it's just the snake eating its own tail  
10 over and over again. And I think that everyone  
11 needs to know that these policies are not designed  
12 to mitigate. They're designed for, to make people  
13 more vulnerable.

14 CHAIRPERSON TREYGER: And, and I think  
15 you've exposed a, an inconsistency in federal  
16 policy where HUD dollars do require fraud  
17 mitigation... some level of resiliency and FEMA, and  
18 FEMA doesn't of some sort. Because what you're  
19 saying is that with the, with the NFIP program  
20 you're saying that they're not pushing for the  
21 resiliency measures actually they're penalizing..

22 ANDREA: They're penalizing. Yeah.

23 CHAIRPERSON TREYGER: But with HUD  
24 funding there's, there, according to Build it Back

2 you're, you, you, they have to elevate and they  
3 have to...

4 ANDREA: Obviously.

5 CHAIRPERSON TREYGER: ...take some of  
6 these measures. Right.

7 ANDREA: And if, if NFIP hadn't  
8 underpaid we wouldn't have had to have so much  
9 Build it Back. So it's, it's, it's an endless...  
10 these agencies don't talk to one another. And  
11 that's what we have an opportunity to do now is  
12 actually real reform that, that makes sense.

13 CHAIRPERSON TREYGER: And it's going to  
14 be a bigger issue because more people will be  
15 required to purchase flood insurance. And you're  
16 going to have a thousands of more New Yorkers now  
17 having to pay this, you know burdensome expense and  
18 heaven forbid another storm or, or emergency you  
19 know hits, hits our area what have we learned from  
20 Sandy, what have we done since Sandy... [cross-talk]

21 ANDREA: Actually yeah but people have  
22 learned a lot. I mean...

23 CHAIRPERSON TREYGER: Yeah. Well I'm  
24 saying that the governments...

25 ANDREA: Right.



2 CHAIRPERSON TREYGER: The people. The  
3 residents you, you... this... [cross-talk]

4 ANDREA: No governments have... [cross-  
5 talk]

6 CHAIRPERSON TREYGER: The government  
7 needs to learn and act.

8 ANDREA: They have.

9 CHAIRPERSON TREYGER: Yes.

10 ANDREA: They are learning. They have.  
11 It's just a matter of connecting these dots.

12 CHAIRPERSON TREYGER: Correct.

13 ANDREA: The information is out there.

14 CHAIRPERSON TREYGER: Right.

15 ANDREA: And in terms of additional  
16 claims yes that's why mitigation credits are so  
17 important because we can actually become involved  
18 with our homes and our own resiliency and keep the  
19 policies lower and forestall future disaster, you  
20 know destruction. Simple things; flood vents,  
21 elevating sensitive equipment... those two, two items  
22 right there would actually hasten recovery  
23 exponentially.

24 CHAIRPERSON TREYGER: Right.

1  
2 ANDREA: But they don't encourage  
3 mitigation.

4 CHAIRPERSON TREYGER: Well thank you... I,  
5 I truly appreciate your testimony here today. With  
6 that I think that's the, is that the final... final,  
7 final panel? We, I thank, thank my remaining  
8 colleague Council Member Margaret Chin. This is  
9 the, this is only the beginning. This is going to,  
10 we're going to continue to highlight this, to  
11 advance resolutions. To have additional hearings,  
12 mobilization efforts of our community to demand  
13 changes and to further assist victims now two  
14 years, two years plus post Sandy. Thank you very  
15 much. The meeting is adjourned.

16 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date           April 27, 2015